

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

x

JOSEPH HAN and TONY CHANG, on
behalf of themselves and others similarly
situated,

Plaintiffs,

Civil Action No.: CV 09-5589

-against-

STERLING NATIONAL MORTGAGE
COMPANY, INC., JONATHAN
GOLDBERG, ADAM DEJAK and
MICHAEL BIZENOV,

Bianco, Jr.
Tomlinson, M.J.

Defendants.

x

AFFIDAVIT OF NEAL KRUMPER

STATE OF NEW YORK)
 : ss.:
COUNTY OF NASSAU)

NEAL KRUMPER, being duly sworn, deposes and states as follows:

1. I am employed by Sterling National Mortgage Company ("Sterling") as Executive Vice President. I have been employed by Sterling since 1996.¹

2. As Executive Vice President, I oversee Sterling's entire mortgage group. I am familiar with how each of Sterling's branch offices is run, as well as with the job duties of, inter alia, Sterling's inside loan officers.

3. Sterling employed inside loan officers at its Forest Hills branch for a limited period of time, between February 2006 through May 2007, then again between January

¹ From 1990 through 1996, I was employed by a mortgage company, which was purchased by Sterling in 1996.

2008 through November 2009. Since that time, it has not employed inside loan officers at its Forest Hills branch.

4. Sterling never has employed inside loan officers at its Staten Island branch.

5. Sterling provides a full range of mortgage loan options.

6. Sterling's inside loan officers' primary job duties include collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial product best meets the customer's needs and financial circumstances; and, advising customers regarding the advantages and disadvantages of different financial products.

7. In or around May 2007, I participated (with other Company executives and Sterling's outside counsel) in a review of Sterling's inside loan officers' duties to classify the inside loan officers as exempt, or non-exempt, from the overtime requirements of federal and New York State law.

8. Based on our review, Sterling was advised that it was lawful to classify inside loan officers as exempt from overtime as long as they were paid on a salary or guaranteed draw basis.

9. Accordingly, on July 27, 2007, Sterling began paying inside loan officers a predetermined weekly amount of \$550, which was not subject to reduction due to quantity or quality of work. This guaranteed draw was paid each week. Under this compensation system, commissions were payable after they exceeded draw amounts already paid to the inside loan officer; that is, commissions are offset by the guaranteed draw amount. Further, if an inside loan

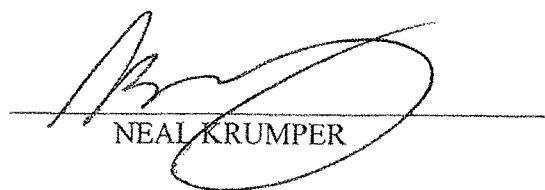
officer separated from employment with Sterling with a negative draw balance, he or she had no obligation to repay Sterling for any monies.

10. While Sterling commenced payment of a guaranteed draw to its inside loan officers in July 2007, in or about August 2008 it began providing newly hired inside loan officers with a Compensation Agreement that set forth the manner of compensation (*i.e.*, a guaranteed draw offset by commissions). It is my understanding that Plaintiff Han signed such an Agreement.

11. Inside loan officers are supervised by Team Leaders, who supervise inside loan officers; provide training; and act as liaison between the inside loan officers and other units of the Company. Team Leaders have a different compensation program than inside loan officers.

12. Sterling also employs outside loan officers. The nature of their jobs and compensation arrangements are very different from inside loan officers. Sterling's outside loan officers devote most of their work time to activities outside Sterling's offices, *e.g.*, meeting with contacts, leads and clients to sell retail loans. Outside loan officers do not receive a guaranteed draw. They are compensated solely on a commission basis.

13. Inside loan officers conduct the majority of their business at Sterling's offices. They have no outside sales responsibilities and are to perform their work at an office. Inside loan officers' primary job duty is to assess which financial product best meet customers' needs.



NEAL KRUMPER

Sworn to before me on this 13
day of May, 2010.

Jennifer Demodna
Notary Public

JENNIFER DEMODNA
Notary Public, State of New York
No. 01DE6082891
Qualified in Suffolk County
Commission Expires Nov. 4, 2010